

**§ 301.6231(c)-5T**

year ending with or within the partner's taxable year for which an assessment of income tax under section 6851 or section 6861 is made shall be treated as nonpartnership items as of the moment before such assessment is made.

[T.D. 8128, 52 FR 6793, Mar. 5, 1987]

**§ 301.6231(c)-5T Criminal investigations (temporary).**

The treatment of items as partnership items with respect to a partner under criminal investigation for violation of the internal revenue laws relating to income tax will interfere with the effective and efficient enforcement of the internal revenue laws. Accordingly, partnership items of such a partner arising in any partnership taxable year ending on or before the last day of the latest taxable year of the partner to which the criminal investigation relates shall be treated as nonpartnership items as of the date on which the partner is notified that he or she is the subject of a criminal investigation and receives written notification from the Service that his or her partnership items shall be treated as nonpartnership items. The partnership items of a partner who is notified that he or she is the subject of a criminal investigation shall not be treated as nonpartnership items under this section unless and until such partner receives written notification from the Service of such treatment.

[T.D. 8128, 52 FR 6793, Mar. 5, 1987]

**§ 301.6231(c)-6T Indirect method of proof of income (temporary).**

The treatment of items as partnership items with respect to a partner whose taxable income is determined by use of an indirect method of proof of income will interfere with the effective and efficient enforcement of the internal revenue laws. Accordingly, partnership items of such a partner arising in any partnership taxable year ending on or before the last day of the taxable year of the partner for which a deficiency notice based upon an indirect method of proof of income is mailed to the partner shall be treated as nonpartnership items as of the date on which

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that deficiency notice is mailed to the partner.

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**§ 301.6231(c)-7T Bankruptcy and receivership (temporary).**

(a) *Bankruptcy.* The treatment of items as partnership items with respect to a partner named as a debtor in a bankruptcy proceeding will interfere with the effective and efficient enforcement of the internal revenue laws. Accordingly, partnership items of such a partner arising in any partnership taxable year ending on or before the last day of the latest taxable year of the partner with respect to which the United States could file a claim for income tax due in the bankruptcy proceeding shall be treated as nonpartnership items as of the date the petition naming the partner as debtor is filed in bankruptcy.

(b) *Receivership.* The treatment of items as partnership items with respect to a partner for whom a receiver has been appointed in any receivership proceeding before any court of the United States or of any State or the District of Columbia will interfere with the effective and efficient enforcement of the internal revenue laws. Accordingly, partnership items of such a partner arising in any partnership taxable year ending on or before the last day of the latest taxable year of the partner with respect to which the United States could file a claim for income tax due in the receivership proceeding shall be treated as nonpartnership items as of the date a receiver is appointed in any receivership proceeding before any court of the United States or of any State or the District of Columbia.

[T.D. 8128, 52 FR 6793, Mar. 5, 1987]

**§ 301.6231(c)-8T Prompt assessment (temporary).**

The treatment of items as partnership items with respect to a partner on whose behalf a request for a prompt assessment of tax under section 6501(d) is filed will interfere with the effective and efficient enforcement of the internal revenue laws. Accordingly, partnership items of such a partner arising in any partnership taxable year ending

with or within any taxable year of the partner with respect to which a request for a prompt assessment of tax is filed shall be treated as nonpartnership items as of the date that the request is filed.

[T.D. 8128, 52 FR 6794, Mar. 5, 1987]

**§ 301.6231(d)-1T Time for determining profits interest of partners for purposes of sections 6223(b) and 6231(a)(11) (temporary).**

(a) *Partner owns interest at close of year.* For purposes of section 6223(b) (relating to special rules for partnerships with more than 100 partners) and section 6231(a)(11) (relating to 5-percent groups), except as otherwise provided in this section, the profits interest held by a partner, directly or indirectly through one or more pass-thru partners, in a partnership (the "audit partnership") to which subchapter C of chapter 63 of the Code applies shall be determined at the close of the audit partnership's taxable year.

(b) *Partner does not own interest at close of year.* If the entire direct and indirect interest of a partner in an audit partnership is terminated by virtue of a disposition by such partner of such interest (or by virtue of the disposition of an interest held by one or more pass-thru partners through which the partner holds an interest), then the profits interest of such partner in the audit partnership shall be measured as of the moment before the disposition causing such termination. The preceding sentence shall not apply with respect to a termination if subsequent to such termination and before the close of the audit partnership's taxable year the partner acquires a direct or indirect interest in the audit partnership.

(c) *Disposition of last remaining portion of interest is disposition of entire interest.* If a partner (or a pass-thru partner through which a partner holds an interest) makes several partial dispositions of an interest in an audit partnership during a taxable year of the audit partnership, paragraph (b) of this section will apply with respect to the disposition which causes a termination of the partner's entire direct and indirect interest in the audit partnership.

(d) *No profits interest in certain cases.* If—

(1) The interest of a partner in a partnership is entirely disposed of before the close of the taxable year of the partnership, and

(2) No items of the partnership for that taxable year are required to be taken into account by the partner,

that partner has no profits interest in the partnership for that taxable year. For example, if a partner dies before the close of the taxable year of the partnership, generally no items of the partnership for that taxable year are required to be taken into account on the final return of the deceased partner under § 1.706-1(c)(3); consequently, the deceased partner has no profits interest in the partnership for that taxable year.

(e) *Examples.* The provisions of this section may be illustrated by the following examples. Assume in all examples that there have been no re-acquisitions prior to the close of the audit partnership's taxable year.

*Example 1.* B holds an interest in partnership P through T, a pass-thru partner. P uses a fiscal year ending June 30 as P's taxable year; B and T use the calendar year as the taxable year. As of the close of P's taxable year ending June 30, 1985, T holds an interest in P and B holds an interest in P through T. The profits interest held by B in P through T for that year is determined as of June 30, 1985.

*Example 2.* Assume the same facts as in example 1, except that B sold the entire interest that B held in P through T on November 5, 1984. The profits interest held by B in P through T for P's taxable year ending June 30, 1985, is determined as of the moment before the sale on November 5, 1984.

*Example 3.* C holds an interest in partnership P through T, a pass-thru partner. C, P, and T all use the calendar year as the taxable year. T disposes of T's interest in P on June 5, 1985. The profits interest held by C in P through T for 1985 is determined as of the moment before the disposition on June 5, 1985.

*Example 4.* Assume the same facts as in example 3, except that C sold her entire interest in T (and, therefore, her entire interest that she held in P through T) on March 15, 1985. The profits interest held by C in P through T for 1985 is determined as of the moment before the sale on March 15, 1985.

*Example 5.* On January 1, 1985, D held a 2 percent profits interest in partnership P. Both D and P use the calendar year as the taxable year. On August 1, 1985, D transfers three-fourths of D's profits interest in P to